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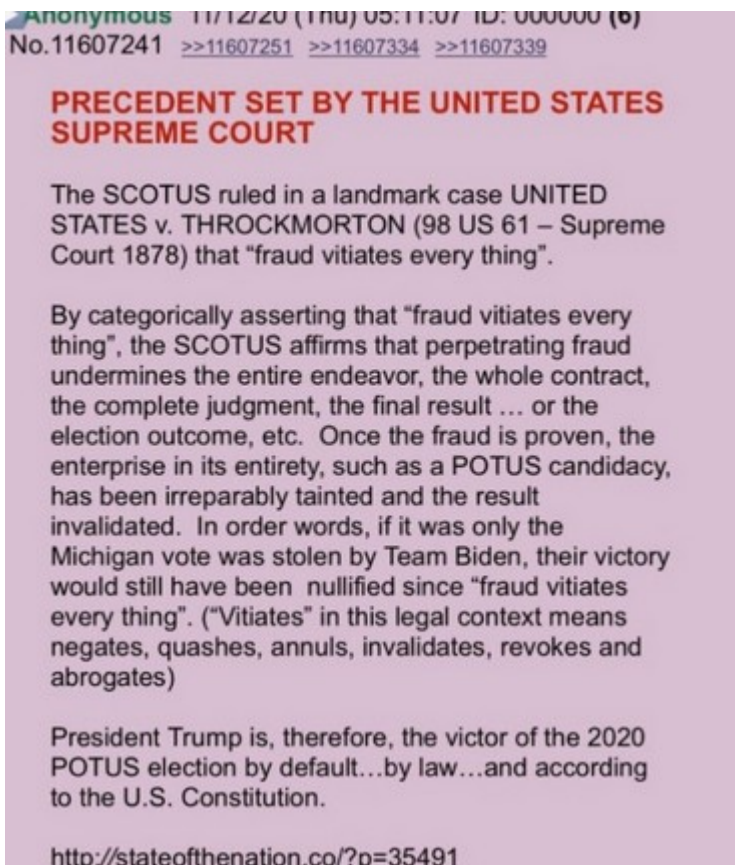
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Does Fraud Vitiate Everything?

[July 20, 2021](#) ~ [Brian](#)

Just a few days after the 2020 presidential election, when it had become obvious that the fix was in, a fringe website called [State of the Nation](#) published a post claiming that a 19th century Supreme Court decision means that Donald Trump actually won the election. In [Let's be very clear about the 2020 election outcome: "FRAUD VITIATES EVERYTHING"](#) the site authors reference the 1878 Supreme Court decision [United States v. Throckmorton](#), which was about a land deed that was later found to be fraudulently obtained.

Coming from a website with headlines such as [Was Kobe Bryant assassinated?](#) and [CORONAVIRUS HOAX: Fake Virus Pandemic Fabricated to Cover-Up Global Outbreak of 5G Syndrome](#), one might be tempted to ignore it and move on. However, shortly after the post was published, a screenshot was posted on 4chan, and has been making the rounds in conservative social media ever since.



Many conservatives who believe that the 2020 election will be inevitably overturned and Trump returned to office explicitly or implicitly refer to this post. You might hear them saying “fraud vitiates everything” as if it were a magical incantation. I was curious about the foundation of this argument, so I examined the case in question.

In 1878, Justice Samuel Miller wrote the majority opinion in the case of *United States v. Throckmorton*. Apparently a certain man, W. A. Richardson, had petitioned for a land deed in California, and in doing so had presented documentation from a Mexican bureaucrat who had administered California prior to the Mexican-American War. It was later discovered that these documents were not authentic, rather they had been created after Mr. Richardson had applied for the US title.

In his opinion, Justice Miller refers to several other cases where fraud was alleged after a judgment. He is very careful to not overstep the doctrine of *rex adjudicata* which says that a judgment once made should not be re-litigated. This is the civil version of the *double jeopardy* rule in criminal cases – once a defendant is exonerated, the government cannot charge him again for the same crime. The purpose of *rex adjudicata* is to prevent people from wasting the court’s time by suing and counter-suing the same issue over and over again.

Justice Miller cites a “Mr. Wells” who wrote on the subject of *rex adjudicata*. In the citation he quotes this Mr. Wells writing:

“Fraud vitiates every thing, and a judgment equally with a contract; that is, a judgment obtained directly by fraud, and not merely a judgment founded on a fraudulent instrument; for, in general, the court will not go again into the merits of an action for the purpose of

detecting and annulling the fraud.’ . . . ‘Likewise, there are few exceptions to the rule that equity will not go behind the judgment to interpose in the cause itself, but only when there was some hindrance besides the negligence of the defendant, in presenting the defence in the legal action. There is an old case in South Carolina to the effect that fraud in obtaining a bill of sale would justify equitable interference as to the judgment obtained thereon. But I judge it stands almost or quite alone, and has no weight as a precedent.”

United States v. Throckmorton, Paragraph 16

Let us take a moment to define our terms. [According to Merriam-Webster](#), the word “vitate” means to make faulty or defective, to debase in a moral or aesthetic sense, or to make ineffective. The legal usage of the words seems to be the third definition, to make ineffective. Therefore according to Wells, fraud (once proven, of course) in a contract or a judgment renders the whole thing moot. However, in that same citation, Wells says that only a specific kind of fraud will invalidate a contract or judgment – if the judgment was simply “founded on a fraudulent instrument” then the courts would not reopen the case.

Later in his judgment, Justice Miller refers to a Massachusetts court decision regarding a divorce case that involved fraudulent testimony. He quotes Massachusetts Chief Justice Shaw who wrote:

The maxim that fraud vitiates every proceeding must be taken, like other general maxims, to apply to cases where proof of fraud is admissible. But where the same matter has been actually tried, or so in issue that it might have been tried, it is not again admissible; the party is estopped to set up such fraud, because the judgment is the highest evidence, and cannot be contradicted.”

United States v. Throckmorton, Paragraph 22

Do you see yet what is going on here? The blogger at *State of the Nation* quoted *Throckmorton* and claimed that the SCOTUS “categorically” asserted that “fraud vitiates every thing.” However, the case itself shows these words to be quotations by Justice Miller of previous cases whose outcomes were contrary to what the *State of the Nation* author is suggesting. Both the Wells and Shaw citations are essentially saying “fraud vitiates everything, *but...*”

Indeed, the Shaw citation works against the claim that *United States v. Throckmorton* means that Trump will be reinstated. In that case, Chief Justice Shaw specifically wrote that the fraud in question was not admissible because the decision had already been made. He did not allow the divorce case to be re-litigated. *Throckmorton* itself was dismissed by Justice Miller for lack of jurisdiction. What does that mean for Donald Trump in 2020?

First, in *Throckmorton* Justice Miller is only dealing with contracts and judgments. The case had zero to do with elections. This is a basic category error made by the bloggers at *State of the Nation*, and perpetuated by people sharing the screenshot or repeating the phrase. (I suspect that most people do not bother going back to the source.) The blogger at *State of the Nation* attempts to fit a square peg into a round hole:

“The same U.S. Supreme Court ruling also determined that **fraud vitiates contracts**. An election is essentially a binding contract between the electorate and the elected. This indispensable social contract is irreparably broken through voter fraud and election cyber-crimes as the public trust is profoundly violated.”

<http://stateofthenation.co/?p=35491>

Ironically, just two years prior to *Throckmorton* there was an actual disputed presidential election. Democrat Samuel Tilden of New York apparently defeated Republican Rutherford Hayes of Ohio, but three southern states remained up in the air months after the election. Allegations of fraud were made on both sides. In the end, a congressional committee came to a compromise wherein Hayes would receive the disputed electoral votes, but he would then as president withdraw federal troops from the South and end the era of Reconstruction. This election provided the template for a suggested commission that might have been created had the 2020 election not been so successfully stolen.

While not going as far as these conservative activists want, *Throckmorton* seems to allow for re-litigation in some cases, while not setting any hard precedents. However, electoral law is its own beast. The office of President of the United States is established in Article II of the US Constitution, and the method for electing the president is laid out in Section 1:

“Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.”

US Constitution, Article II, Section 1, Paragraph 2

Election Day is also established by the Constitution:

“The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.”

US Constitution, Article II, Section 1, Paragraph 4

This is one place where the unilateral changes made to election law by governors and state bureaucrats should be reasonably challenged. The Constitution says that the Electors shall be chosen on “a day” not “multiple days”. Early voting is clearly unconstitutional.

The method for electing the president is that each state chooses Electors, who then convene in December to cast their votes. Those votes are counted and certified by a Joint Session of the new Congress the following January. The winning candidate is then sworn in on January 20th. There is nothing in the US Constitution that compels states to choose their Electors in any specific fashion. In the early days of the Republic, state legislatures simply selected Electors. Today, all fifty states and the District of Columbia choose their electors with popular elections. (Remember, when you vote for president, you are not really voting for the president directly, but for the Electors who will cast their votes on your behalf.) Two states – Maine and Nebraska – split their electors somewhat proportionally, while the others are winner-take-all.

Unfortunately for those who are hanging on to hope of Donald Trump being reinstated after audits prove electoral fraud, there is no constitutional mechanism for this. No matter what fraud or illegal activities took place in the lead-up to the 2020 election, constitutional mandates were followed. Every state certified their own presidential elections, and the Joint Session certified the Electoral College votes. I am not aware of a time when Electors have been “recalled” after the fact. Even if a state such as Arizona voted to recall their Electors, I do not believe it would have any practical effect.

The time for investigating and dealing with the fraud was in November and December of 2020, before certification took place in the state legislatures and the Joint Session of Congress. Yes, those legislators, congressmen, and senators who certified those votes knowing that fraud had taken place were spineless. The January 6th protest was used as an excuse to ignore the fraud entirely. The Republican Party should have fought harder, but they rubber stamped this thing because they were afraid of what would happen if they took a controversial stand.

As for the audits themselves, even the “general doctrine” that “fraud vitiates everything” requires proof of that fraud. I am afraid that we will never get the proof we want. Too much time has passed, and the ballots and voting machines have been touched by too many hands. As they say on TV, the crime scene has been hopelessly contaminated. We will likely see a lot of evidence of fraud, but outright proof? I doubt it. Besides, there is nothing will convince CNN and the left that this was anything less than the most secure election in history. We are beyond the point where truth and facts matter.

President Trump will not be reinstated next month, or at any other time before Inauguration Day 2025. Anyone saying so is either misinformed or selling hopium to desperate conservatives. We should definitely push for more secure elections, but I believe the most positive outcome of the audits is to convince rank-and-file conservatives how broken the system really is. Our elections have been fraudulent for many years, as both sides utilize underhanded tricks to get their guy across the finish line. Recall that the 1960 presidential election between John F. Kennedy and Richard Nixon was decided by a few probably-fraudulent votes in a handful of corrupt counties in Texas and Illinois. The votes we cast have little relation to the numbers that appear on the screen at the end of the day, and these audits are only going to confirm that sad fact.

America will not be saved by putting Donald Trump back into office. Magic words and incantations do not change the fact that we are living in an occupied country. We must fearlessly face the truth at all times. The way forward is to build local communities of like-minded people who will weather the storm to come. Whether it is totalitarianism, secession, or civil war, having a tribe of men at your back is the only way to preserve and defend the remnants of Western Civilization.

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4 thoughts on “Does Fraud Vitiate Everything?”



1. **dustydzrt**

[July 28, 2021 at 12:28](#)

2 words: “quo Warranto”. Look it up. Read the cases. And it is wholly constitutional

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2. **Ri-chard**

[October 18, 2021 at 11:32](#)

Fraud Vitiate Everything? Yes, including the actions and lack of them by America’s Founders.

Examples of Fraud not taught to public school students or government funded colleges.

1.) 1781 what Cornwallis told Washington what is to become of America and it’s people during his so called surrender. <https://911nwo.com/?p=7775> Legions of Satan Banning (newensign.com)

2.) Washington should have immediately created a Doctrine of Conquest claiming all the spoils of war the American Patriots fought for. All of them.

This conquest document would have documented that a victorious nation (America) in war acquired sovereignty over the conquered nation (British Crown) and could exert its own legal and political jurisdiction chosen by its sovereign residents.

The practice for creating a doctrine of conquest dates back at least to Roman law.

Instead, George Washington allowed King George III in 1783 to dictate his own Trilateral Treaty terms for ending the physical war. The King did this claiming the Holy Roman Empire’s capacities bestowed on him as Arch-treasurer and Prince Elector of the United States of America and claimed his States were Free and Sovereign, not We the People in the 1st Article.

https://avalon.law.yale.edu/18th_century/paris.asp

3.) No document was created during the Constitutional Convention 1787 defining for We the People what form of a Republic we are to have. Therefore, not one State ever submitted their Constitution to be certified as Republican in form per Article IV of “this Constitution for the United States of America” I.e. per the Preamble.

4.) The very First Act of Congress 1789 made it law that all would swear an oath to “the Constitution of the United States”. there is no document to be found in law or at law with that document title. the correct document title is stated in the Preamble as “the Constitution for the United States of America”. Yes, words mean everything, especially if you are creating a technical CYA Act of Law.

Yes there is more but why go any further.

The MAXIMS OF LAW AND EQUITY – THEY ARE THE FOUNDATIONS OF ANY LEGITIMATE AND LAWFUL SOCIETY. Sampling as follows:

From a wrong no contract can arise.

False in one thing, false in all things.

It is a fraud to conceal a fraud.

Fraud and justice never dwell together.

Fraud lies hidden in general expressions.

Fraud is most hateful to law.

In default of the law, the maxim rules.

A mandate of an illegal thing is void.

Remove the foundation, the work falls. – Yes rip the band off exposing the parasitic sores to the light.

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3. **Andrew James Patton**

[January 15, 2022 at 15:49](#)

It is not hopium to demand a remedy and obtain such remedies as the law permits. First option: Install Trump as Speaker of the House in 2023 and let him succeed to the Presidency. Second option: Call a Constitutional Convention to create a remedy that satisfies us.

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1. **Ri-chard**

[January 15, 2022 at 22:17](#)

Agree, not Hopium to demand remedy for cure of all the the harms and deceit done to We the People.

Also, a Constitutional Convention in each State must be enforced by the people to determine/define what form of a Republic we are to have.

We must do what the Founders didn't do and the Governors of each State in regard to Article IV Section 4 of the Constitution. The founders never created a document define what form of a Republic we were supposed to have, Therefore, not one State ever submitted their Constitution for certification being Republican in form. This was one of the very first breaches.

Then we must demand a remedy for what General Washington didn't after the so-called surrender of General Cornwallis in 1781. Washington did not create a Doctrine of Conquest as the victor claiming all the spoils of war the American Patriots fought for. Instead, Washington abandons the Americans by allowing King George III to dictate the terms for ending the war in his 1783 Treaty of Peace giving nothing to the American Patriots.

It would be good to fix, repair or replace these faulty and deceptive foundations first.

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- [June 2022](#)
- [May 2022](#)
- [March 2022](#)
- [February 2022](#)
- [January 2022](#)
- [December 2021](#)
- [November 2021](#)
- [October 2021](#)
- [September 2021](#)
- [August 2021](#)
- [July 2021](#)
- [June 2021](#)
- [May 2021](#)
- [April 2021](#)
- [March 2021](#)
- [February 2021](#)
- [January 2021](#)
- [December 2020](#)
- [November 2020](#)
- [October 2020](#)
- [September 2020](#)
- [August 2020](#)
- [July 2020](#)
- [June 2020](#)
- [May 2020](#)
- [April 2020](#)
- [March 2020](#)
- [February 2020](#)
- [January 2020](#)
- [December 2019](#)
- [October 2019](#)

- [September 2019](#)
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